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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,495	03/08/2004	Ronnie Browne	22188/06622	2494
24024 7590 03/06/2007 CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			EXAMINER FOX, JOHN C	
			ART UNIT	PAPER NUMBER
			3753	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/06/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No. 10/708,495	Applicant(s) BROWNE ET AL.	
	Examiner John Fox	Art Unit 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 58-60 and 68-99 is/are pending in the application.
- 4a) Of the above claim(s) 59,60,69-72,74-76,82,83 and 85-87 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 58,68,73,77-81,84 and 88-99 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This Action is responsive to the communication filed February 5, 2007.

Claims 1-57 and 61-67 have been cancelled.

Claims 59-60, 69-72, 74-76, 82-83, and 85-87 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on January 27, 2006.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 58, 68, 73, 77, 79-81, 84, 88, 90-99 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whitehouse in view of Fukano et al.

Whitehouse shows a piston actuator with piston 24 and stroke adjustment cap 38 threaded into portion 48. The loose fit of stem 14 in bore 40 and the loose thread connections at 42 inherently duplicate the function of bore 46, which is to permit the inlet and outlet of air, and portion 48 is thus read as an actuator inlet. The housing of Whitehouse is read as an integral cap and base construction. The single acting piston shown in Figure 2 can have a return spring, see column 2, lines 4-9. Whitehouse, however, is not a valve actuator. Fukano et al show a typical single acting piston to actuate a valve. It would have been obvious at the time the invention was made to have used the actuator of Whitehouse to similarly actuate a valve as taught by Fukano et al.

Applicant's arguments have been fully considered but they are not persuasive. The atmosphere constitutes a pressurized fluid, typically given as 14.7 psi at sea level. The fluid to the left of the piston of Whitehouse thus constitutes a pressurized fluid. The

piston of Whitehouse moves when the pressure to the right is unequal to the pressure to the left. There is no question but that fluid to the left of the piston communicates through the cap 38. Thus, the functional recitation "to move the at least one piston" is not seen to distinguish over Whitehouse.

Claims 58, 78, 81, 89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wall in view of Fukano et al, of record, and further in view of Pettigrew et al.

Wall shows a piston actuator including a stroke limiting abutment member 16 but mechanism 23 is not disclosed. Fukano et al shows a typical piston actuated biased closed valve. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used the piston actuator of Wall to actuate a valve such as that of Fukano et al to similarly control fluid flow. Pettigrew et al show a piston 40 with an adjustable limit stop 57 which is coincident with an actuator inlet port of line 45. It would have been an obvious matter of design to have constructed the limit stop and inlet port of Wall, as modified, as coincident members as shown in Pettigrew et al.

Applicant's arguments have been fully considered but they are not persuasive. The Pettigrew et al limit stop includes the cylindrical space through which stop extends, and fluid clearly flows through that space.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

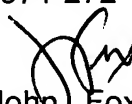
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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Fox whose telephone number is 571-272-4912. The examiner can normally be reached on Patent Hoteling Program.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel can be reached on 571-272-4929. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
John Fox  
Primary Examiner  
Art Unit 3753